

or discount with whatever information is needed to identify specifically the intended shipments, but in any event, at a minimum, identify either the shipper's name or the commodity description and origin and destination points; and

(5) File with the Commission:

(i) One copy of each activating tariff submitted by fax transmission to (202) 927-5888; to avoid the necessity of filing a separate transmittal letter (see § 1312.4(b) of this part), the title page of every activating range tariff shall provide the name, title and phone number of the party authorized to submit the publication for filing with the Commission, and the fee account number established for the filing carrier or agent; or

(ii) Two copies of each activating tariff transmitted by hand in accordance with the requirements of § 1312.3 and 1312.4(a) and (b) of this part.

(d) Except as expressly provided in this section, range tariffs are subject to the provisions of §§ 1312.1 through 1312.40 of this part.

[59 FR 4844, Feb. 2, 1994]

PART 1313—RAILROAD CONTRACTS ENTERED INTO PURSUANT TO 49 U.S.C. 10713

Sec.

1313.1 Definitions of the terms *contract* and *amendment*.

1313.2 Jurisdiction; contract approval/disapproval.

1313.3 Contract implementation date.

1313.4 Common carrier responsibility; limitations on future contracts.

1313.5 Remedies for breach of approved contracts.

1313.6 Limitation on equipment; and relief.

1313.7 Contract filing, title pages, and numbering.

1313.8 Contract and contract summary availability.

1313.9 Formats for initial and amended contract summaries.

1313.10 Contract summary content—agricultural commodities.

1313.11 Contract summary content—forest products and paper.

1313.12 Contract summary content—port traffic (other than agricultural commodities, forest products, and paper).

1313.13 Contract summary content—other commodities or services not involving a port.

1313.14 Informal discovery.

1313.15 Contract discovery.

1313.16 Procedures for contract discovery and complaints.

1313.17 Grounds for contract review and complaints.

AUTHORITY: 49 U.S.C. 10321 and 10713; 5 U.S.C. 553.

SOURCE: 53 FR 5380, Feb. 24, 1988, unless otherwise noted.

§ 1313.1 Definitions of the terms *contract* and *amendment*.

(a) A contract made pursuant to 49 U.S.C. 10713 is a written agreement, including any amendment, entered into by one or more rail carriers with one or more purchasers of rail service, to provide specified services under specified rates, charges and conditions.

(b) A contract filed under these rules must:

(1) Specify that the contract is made pursuant to 49 U.S.C. 10713, and

(2) Be signed by duly authorized parties.

(c) The term *amendment* includes written contract modifications signed by the parties.

(d) An amendment is treated as a new contract. [To the extent contract extensions or amendments change any term of the contract, remedies are revived and review is again available.] An amendment is lawful only if it is filed and approved in the same manner as the original contract and is consistent with these rules, including the filing of a complete contract summary.

§ 1313.2 Jurisdiction; contract approval/disapproval.

(a) *Jurisdiction*. (1) The contract or amendment and transportation are subject to Commission jurisdiction until Commission approval under 49 U.S.C. 10713 and applicable regulations.

(2) Railroad transportation contracts (other than agricultural commodity contracts) made by the United States Department of Defense are exempt from the requirements of 49 U.S.C. 10713.

(b) *Contract approval date*. Except as provided in § 1313.7(a)(2):

(1) The contract is approved on the 30th day after the filing of the contract summary if the Commission does not institute a proceeding to review the contract.

(2) If the Commission institutes a proceeding to review a contract, it has jurisdiction for 60 days after the contract summary is filed. Under these circumstances the contract will be approved:

(i) On the date the Commission approves the contract, if the date of approval is 31 or more days after the filing date of the contract summary;

(ii) On the 31st day after the contract summary filing date if the Commission denies the complaint against the contract by the 30th day after the contract summary filing date; or

(iii) On the 60th day after the contract summary filing date, if the Commission fails to disapprove the contract.

(c) *Contract disapproval.* If the Commission finds that the contract violates the provisions of 49 U.S.C. 10713, it will:

(1) Disapprove the contract; or

(2) In the case of agricultural contracts (including forest products and paper) where the Commission finds unreasonable discrimination by a carrier in accordance with 49 U.S.C. 10713 and § 1313.17(b)(3), allow the carriers the option to:

(i) Provide rates and services substantially similar to the contract at issue, with such differences in terms and conditions as are justified by the evidence; or

(ii) Cancel the contract.

(d) *Applicable rates/charges if contract disapproved.* If the Commission disapproves or rejects the contract or amendment, the appropriate non-contract tariffs or the contract provisions otherwise in effect under previously approved contracts will be applicable.

[53 FR 5380, Feb. 24, 1988, as amended at 57 FR 40621, Sept. 4, 1992]

§ 1313.3 Contract implementation date.

(a) Transportation or service performed under a contract or amendment may begin, without specific Commission authorization, on or after the date the contract summary (or amended contract summary) is filed and before Commission approval as defined in 49 CFR 1313.2, subject to the following conditions:

(1) The contract or contract amendment shall specifically state that the

transportation or service may begin on the date of filing.

(2) The contract summary shall separately reflect the date of commencement of service.

(b) Except as provided under paragraph (c) of this section, transportation or service may not begin under a contract or an amendment to a contract before the filing date of either the contract summary or the amended contract summary, respectively.

(c) Railroad transportation or service is exempt from the requirements of 49 U.S.C. 10761, 11902, 11903, and 11904 to the extent that a railroad may apply a contract or amended contract rate rather than an otherwise applicable tariff or prior contract rate and pay reparations or waive undercharges under the following conditions:

(1) A transportation contract summary or amended contract summary under 49 U.S.C. 10713 has been filed with the Commission and has been approved by the Commission or by operation of law.

(2) The shipment at issue falls within the terms of the contract or amendment; and

(3) The shipment was transported before the contract or amendment was approved but:

(i) After the contract or amendment was signed; or

(ii) After the parties agreed on the rate to be charged and they either agreed to be bound by the contract or amendment or intended the movement to be covered by the contract and amendments.

(d) Except as provided elsewhere in this section, all transportation under the contract may begin only in accordance with 49 CFR 1313.2.

[53 FR 5380, Feb. 24, 1988, as amended at 57 FR 40621, Sept. 4, 1992; 57 FR 43291, Sept. 18, 1992]

§ 1313.4 Common carrier responsibility; limitations on future contracts.

(a) The terms of a contract approved by the Commission determine completely the obligations of the parties to the contract with respect to the services provided under the contract. The contract does not affect the parties' responsibilities for any services which are not included in the contract.